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OFFICE OF PETITIONS

In re Application of :
Maddon et al. : DECISION ON PETITION
Application Number: 10/695667 :
Filing Date: 10/27/2003 :
Attorney Docket Number: :
P0741.70006US00 :

This is a decision on the petition filed on January 31, 2008, under 37 CFR 1.137(b)¹ to revive the above-identified application. This is also a decision on the petition under 37 CFR 1.182 to expedite the petition to revive.

The petition is **GRANTED**.

¹ Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d)).

The application became abandoned on August 17, 2007, for failure to file a proper reply to the non-final Office action mailed on February 16, 2007, which set a three (3) month shortened statutory period for reply. On August 20, 2007 (certificate of mailing date August 16, 2007), an amendment and a three (3) month extension of time were filed. On November 15, 2007, however, an Office communication was mailed stating that the response filed on August 16, 2007, was not fully response to the Office communication mailed on February 16, 2007, and that a complete reply was required to be filed in accordance with the time period set forth in the non-final Office action mailed on February 16, 2007.

Petitioner has filed an amendment and a Sequence Listing as the required reply.

The application is being referred to Technology Center Art Unit 1643 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.



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